

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

JOANNE M. ROYER,	)	CIVIL ACTION NO: <u>NO: 05-CV-10448-GAO</u>
Plaintiff	)	
	)	
V.	)	
	)	
BLUE CROSS BLUE SHIELD	)	
OF MASSACHUSETTS, INC.,	)	
BLUE CROSS BLUE SHIELD	)	
LONG-TERM DISABILITY BENEFIT	)	
PLAN, a/k/a OMNIBUS WELFARE	)	
BENEFITS PLAN	)	
KEMPER NATIONAL SERVICES, INC.,	)	
BROADSPIRE SERVICES, INC., and	)	
SHELDON MYERSON, MD.,	)	
Defendants	)	

**OPPOSITION OF THE PLAINTIFF, JOANNE ROYER TO THE DEFENDANTS'  
MOTIONS TO DISMISS COUNTS IV AND V**

Now comes the Plaintiff in the above entitled matter and in opposition to the Defendants' Motion to Dismiss Counts IV and V of the Plaintiff's Second Amended Complaint says as follows:

The Plaintiff reasserts the same opposition as she has set forth in her both of her Oppositions filed as to Counts I and II of her Complaint as well as to Count III of her Complaint and says that the Defendants are proper parties to Counts I, II, IV and V; and that it is at present, premature to brief the Defendants arguments as to Count III for reasons already indicated.

WHEREFORE, the Plaintiff opposes the court dismissing Counts IV and V as to the Defendants, LTD Plan, KNS, Broadspire and Dr. Myerson and says that it would be error as a matter of law, at this time and under these present circumstances.

**REQUEST FOR ORAL ARGUMENT**

Counsel for the Plaintiff requests the opportunity to argue this matter orally and estimates that no more than 15 minutes should be required by undersigned counsel for same.

*Waiver of ECF is hereby temporarily required and requested.*

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Dated: September 15, 2005

The Plaintiff By Her Attorney:

BERNARD A. KANSKY, ESQ.  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served upon opposing counsel of record i.e. to wit: Edward S. Rooney, Jr. Esq., BBO No. 426840, Eckert Seamans Cherin & Mellott, LLC One International Place, 18<sup>th</sup> Floor, Boston, MA 02110, (617) 342-6800/ Fax (617) 342-6899; and to David F. Schmidt, Esq., Chittenden, Murday & Novotny, LLC., 303 West Madison Street, Suite # 1400, Chicago, IL 60606, (312) 281-3600/ Fax (312) 281-3678 by facsimile transmission and by postage prepaid first-class mail on the month, day and year set forth below.

Dated: September 15, 2005

BERNARD A. KANSKY, ESQ. COUNSEL FOR  
THE PLAINTIFF, JOANNE M. ROYER